

DOCKET NO. 2002.02.004.NS0
U.S. SERIAL NO. 10/038,872
PATENT

REMARKS

Claims 1-5, 7-18 and 20-26 are pending in the present application.

Claims 1-5, 7-18 and 20-26 have been rejected.

No claims have been amended

The Applicant respectfully requests reconsideration of Claims 1-5, 7-18 and 20-26 in light of the following arguments, which the Applicant makes in order to more particularly define the issues for appeal.

In Sections 1 and 2 of the August 25, 2004 Office Action, the Examiner rejected Claims 1-5 under 35 U.S.C. §102(e) as being anticipated by United States Patent No. 6,671,259 to *He et al.* (hereafter, simply "*He*"). In Sections 3 and 4 of the August 25, 2004 Office Action, the Examiner rejected Claims 7-13 under 35 U.S.C. §103(a) as being unpatentable over the *He* reference in view of United States Patent Publication No. 20040039820 to *Colby et al.* (hereafter, simply "*Colby*"). In Section 5 of the August 25, 2004 Office Action, the Examiner rejected Claims 14-18 under 35 U.S.C. §103(a) as being unpatentable over the *He* reference in view of United States Patent No. 5,754,959 to *Ueno et al.* (hereafter, simply "*Ueno*"). In Section 6 of the August 25, 2004 Office Action, the Examiner rejected Claims 20-26 under 35 U.S.C. §103(a) as being unpatentable over the *He* reference in view of the *Ueno* reference and further in view of the *Colby* reference.

The Applicant respectfully disagrees with the Examiner's assertions regarding the teachings of the *He* reference with respect to independent Claims 1 and 14. The Applicant respectfully asserts

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that Claims 1 and 14 recite patentable subject matter not disclosed, suggested or even hinted at in the *He* reference.

Independent Claim 1 recites first and second identity server applications (ISAs) that operate on first and second call application nodes (CANs), respectively, to allocate call identity values to call connections. The first and second ISAs form a load sharing group server application (LSGSA). The first ISA comprises a first primary-backup group server application (PBGSA). The first PBGSA comprises a first primary identity server application (PISA) and a first backup identity server application (BISA). The PISA and BISA are executed on the first and second CANs, respectively.

The Examiner cites the *He* reference, column 2, lines 16-38, as teaching the claim restriction "N [CANs] capable of executing a plurality of [ISAs]," further clarifying that the application nodes are the servers. The Applicant respectfully notes that the Examiner has failed to identify which element of the *He* reference teaches the claimed limitation of ISAs. The Applicant submits that this is a crucial identification, because of the claim's subsequent recital of elements that comprise the first ISA, and is thus a fatal flaw in the Examiner's argument that the *He* reference teaches each and every element of the invention as recited in Claim 1.

Nonetheless, the cited passage of the *He* reference describes a network with a plurality of clients and servers. As described in the cited passage, when one of the clients requests a server, a load balancing server selector refers the request to a load balancing server, which selects a server from the subset of servers whose loads it is responsible for balancing. The Examiner notes in response to the Applicant's previous arguments that "servers are shared computers or programs that

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execute applications and provide services to users." Thus, the inference is clear that the Examiner is arguing that the ISAs recited in Claim 1 are shown by the applications executing on the *He* servers and providing services requested by clients.

It is thus inconsistent that where Claim 1 recites that the first ISA comprises a first PBGSA, the Examiner argues that the *He* reference teaches this limitation in multiple load balancing server selectors providing backup for each other, citing column 12, lines 55-65. The load balancing server selectors of the *He* reference are internal system elements that balance the loading of a plurality of servers. The Examiner has therefore moved 'up' into the load balancing elements of the *He* system, rather than 'down' into the elements that comprise applications on the servers.

Indeed, nowhere does the *He* reference teach that applications operating on its servers include a PBGSA. Instead, a single server at a single IP address provides service to a client in the *He* system. The load balancing server may dynamically rebalance the system by redirecting a client to a different server, but there is no teaching in the *He* reference that two servers act as primary and backup in a primary-backup group server application, as recited in Claim 1. Thus, the *He* reference fails to show a first ISA including a first PBGSA, which comprises a first PISA executed on a first CAN and a first BISA executed on a second CAN.

As such, Claim 1 recites unique and non-obvious limitations that are not disclosed, suggested or even hinted at in the *He* reference. Furthermore, the *Colby* and *Ueno* references do nothing to overcome the shortcomings of the *He* reference. This being the case, Claim 1 contains subject matter that is patentable over the *He*, *Colby* and *Ueno* references, either individually or in any combination

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of two or more of the *He*, *Colby* and *Ueno* references. Furthermore, dependent Claims 2-5 and 7-13 depend from Claim 1 and recite all of the unique and non-obvious limitations recited in Claim 1. Thus, Claims 2-5 and 7-13 are also patentable over the cited prior art references.

The Applicant notes that independent Claim 14 recites limitations that are analogous to the unique and non-obvious limitations recited in Claim 1. This being the case, Claim 14 is patentable over the *He*, *Colby* and *Ueno* references, either individually or in any combination of two or more of those references. Finally, Claims 15-18 and 20-26 depend from Claim 14 and recite all of the unique and non-obvious limitations recited in Claim 14. Thus, Claims 15-18 and 20-26 are also patentable over the cited prior art references

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SUMMARY

For the reasons given above, the Applicant respectfully requests reconsideration and allowance of pending claims and that this Application be passed to issue. If any outstanding issues remain, or if the Examiner has any further suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@davismunck.com*.

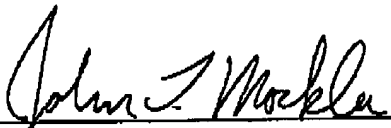
The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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